

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)
)
 v.) CASE NO. 2:07cr307-MEF
)
EARNEST D. BATTLE)

MOTION TO RESCIND PRELIMINARY ORDER OF FORFEITURE

Comes now the United States of America, by and through Leura G. Canary, United States Attorney, Middle District of Alabama, and Tommie Brown Hardwick, Assistant United States Attorney, and moves this Court to rescind the Preliminary Order of Forfeiture (Doc. #22) stating as follows:

This Honorable Court entered a Preliminary Order of Forfeiture (Doc. #22) on March 26, 2008, forfeiting defendant's interest in the following firearms: a Harrington and Richardson, Model 929, .22 caliber revolver, bearing serial number V1741 and a Taurus .38 caliber revolver, bearing serial number 945337.

On May 30, 2008, Defendant filed a motion to withdraw his plea of guilty (Doc. #23). On June 3, 2008, this Court granted the motion and set this matter for trial during the July 28, 2008 criminal term before Honorable Chief Judge Mark E. Fuller (Doc. #24).

In order to avoid further judicial expense, the United States submits that the Preliminary Order of Forfeiture should be rescinded and declared void *ab initio*.

A proposed Order is attached.

Respectfully submitted this 3rd day of June, 2008.

LEURA G. CANARY
UNITED STATES ATTORNEY

/s/Tommie Brown Hardwick
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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

Respectfully submitted,

/s/Tommie Brown Hardwick
TOMMIE BROWN HARDWICK
Assistant United States Attorney

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O R D E R

Upon consideration of the Motion Rescind Preliminary Order of Forfeiture heretofore filed in the above-styled cause, and for good cause shown, the Court is of the opinion that the Motion should be and the same is hereby GRANTED. It is, therefore, **ORDERED, ADJUDGED and DECREED** by the Court that Preliminary Order of Forfeiture (Doc. #22) is hereby rescinded and declared void *ab initio*.

DONE this ____ day of _____, 2008.

CHIEF, UNITED STATES DISTRICT JUDGE